WEST VIRGINIA LEGISLATURE
SEVENTY-NINTH LEGISLATURE
REGULAR SESSION, 2010

ENROLLED
COMMITTEE SUBSTITUTE
FOR
Senate Bill No. 401

 SENATORS McCabe, Wells, Prezioso,
 K. Facemyer, Boley, Plymale, Fanning,
 Minard, Edgell, Jenkins, Chafin
 and Foster, original sponsors)

[Passed March 13, 2010; in effect ninety days from passage.]
AN ACT to amend and reenact §11-3-1, §11-3-2a, §11-3-10, §11-3-12, §11-3-15, §11-3-19, §11-3-24, §11-3-24a and §11-3-25 of the Code of West Virginia, 1931, as amended; to amend said code by adding thereto fourteen new sections, designated §11-3-15a, §11-3-15b, §11-3-15c, §11-3-15d, §11-3-15e, §11-3-15f, §11-3-15g, §11-3-15h, §11-3-15i, §11-3-23a, §11-3-24b, §11-3-25a, §11-3-32 and §11-3-33; to amend said code by adding thereto a new article, designated §11-6K-1, §11-6K-2, §11-6K-3, §11-6K-4, §11-6K-5, §11-6K-6, §11-6K-7 and §11-6K-8; and to amend and reenact §18-9A-12 of said code, all relating to taxation of real and personal property for ad valorem property tax purposes; defining and conforming terms used; making technical corrections in certain code sections to conform to prior acts of the Legislature; accelerating date for issuance of notices of increase in assessed value of real property;
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updating penalties for failure to file required property tax reports and returns; clarifying report and return filing requirements; accelerating due dates for filing reports and returns; assessment of property of limited liability companies; requiring assessors to notify owners of commercial business personal property of increases in assessed values for current assessment year by an established deadline; providing procedures for property owners to protest notices of assessed valuation and obtain appropriate adjustments from county assessors; providing for appeal of protested assessments to county board of equalization and review, board of assessment appeals and circuit court; providing for protest of classification or taxability to Tax Commissioner; specifying effective dates; providing for discovery; authorizing assignment to hearing examiner; providing methods for assessment of industrial property and natural resources property; establishing time and basis for assessments; providing for pertinent definitions; specifying form and manner of making returns; establishing criminal penalties for failure to file; providing for tentative appraisals by Tax Commissioner and notification to taxpayers; providing procedures for informal review of tentative appraisals; making of final appraisals; transmitting final appraisals to assessors; providing for appeals; authorizing reductions of assessments upon instruction of Tax Commissioner in certain circumstances; specifying effective dates; and holding harmless the local share for public school support for reductions in revenues resulting from decisions of a board of assessment appeals.

Be it enacted by the Legislature of West Virginia:

That §11-3-1, §11-3-2a, §11-3-10, §11-3-12, §11-3-15, §11-3-19, §11-3-24, §11-3-24a and §11-3-25 of the Code of West Virginia, 1931, as amended, be amended and reenacted; that said code be amended by adding thereto fourteen new sections, designated §11-3-15a, §11-3-15b, §11-3-15c, §11-3-15d, §11-3-15e, §11-3-15f, §11-3-15g, §11-3-15h, §11-3-15i, §11-3-23a,
§11-3-24b, §11-3-25a, §11-3-32 and §11-3-33; that said code be amended by adding thereto a new article, designated §11-6K-1, §11-6K-2, §11-6K-3, §11-6K-4, §11-6K-5, §11-6K-6, §11-6K-7 and §11-6K-8; and that §18-9A-12 of said code be amended and reenacted, all to read as follows:

CHAPTER 11. TAXATION.

ARTICLE 3. PROPERTY TAX ASSESSMENTS GENERALLY.

§11-3-1. Time and basis of assessments; true and actual value; default; reassessment; special assessors; criminal penalty.

1 (a) All property, except public service businesses assessed pursuant to article six of this chapter, shall be assessed annually as of July 1 at sixty percent of its true and actual value, that is to say, at the price for which the property would sell if voluntarily offered for sale by the owner thereof, upon the terms as the property, the value of which is sought to be ascertained, is usually sold, and not the price which might be realized if the property were sold at a forced sale.

10 (b) Any conflicting provisions of subsection (a) of this section notwithstanding, the true and actual value of all property owned, used and occupied by the owner thereof exclusively for residential purposes shall be arrived at by also giving consideration to the fair and reasonable amount of income which the same might be expected to earn, under normal conditions in the locality wherein situated, if rented: Provided, That the true and actual value of all farms used, occupied and cultivated by their owners or bona fide tenants shall be arrived at according to the fair and reasonable value of the property for the purpose for which it is actually used regardless of what the value of the property would be if used for some other purpose; and that the true and actual value shall be arrived at by giving consideration to the fair and reason-
able income which the same might be expected to earn under normal conditions in the locality wherein situated, if rented: Provided, however, That nothing herein shall alter the method of assessment of lands or minerals owned by domestic or foreign corporations.

(c) The taxes upon all property shall be paid by those who are the owners thereof on the assessment date whether it be assessed to them or others.

(d) If at any time after the beginning of the assessment year, it be ascertained by the Tax Commissioner that the assessor, or any of his or her deputies, is not complying with this provision or that they have failed, neglected or refused, or is failing, neglecting or refusing after five days' notice to list and assess all property therein at sixty percent of its true and actual value as determined under this chapter, the Tax Commissioner may order and direct a reassessment of any or all of the property in any county, district or municipality, where any assessor, or deputy, fails, neglects or refuses to assess the property in the manner herein provided. And, for the purpose of making assessment and correction of values, the Tax Commissioner may appoint one or more special assessors, as necessity may require, to make assessment in any county and any such special assessor or assessors, as the case may be, has the power and authority now vested by law in assessors, and the work of such special assessor or assessors shall be accepted and treated for all purposes by the county boards of review and equalization and the levying bodies, subject to any revisions of value on appeal, as the true and lawful assessment of that year as to all property valued by him or her or them. The Tax Commissioner shall fix the compensation of all special assessors appointed, which, together with their actual expenses, shall be paid out of the county fund by the county commission of the county in which any such assessment is ordered, upon the receipt of a certificate of the Tax Commissioner.
filed with the clerk of the county commission showing the
amounts due and to whom payable, after such expenses
have been audited by the county commission.

(e) Any assessor who knowingly fails, neglects or refuses
to assess all the property of his or her county, as herein
provided, shall be guilty of malfeasance in office and,
upon conviction thereof, shall be fined not less than $100
nor more than $500, or imprisoned not less than three nor
more than six months, or both, in the discretion of the
court, and upon conviction, shall be removed from office.

(f) For purposes of this chapter and chapter eleven-a of
this code, the following terms have the meanings ascribed
to them in this section unless the context in which the
term is used clearly indicates that a different meaning is
intended by the Legislature:

(1) "Assessment date" means July 1 of the year preceding
the tax year.

(2) "Assessment year" means the twelve-month period
that begins on the assessment date.

(3) "Tax year" or "property tax year" means the next
calendar year that begins after the assessment date.

(4) "Taxpayer" means the owner and any other person in
whose name the taxes on the subject property are lawfully
assessed.

§11-3-2a. Notice of increased assessment required for real
property; exceptions to notice.

(a) If the assessor determines the assessed valuation of
any item of real property appraised by him or her is more
than ten percent greater than the valuation assessed for
that item in the last tax year, the increase is $1,000 or
more and the increase is entered in the property books as
provided in section nineteen of this article, the assessor
shall give notice of the increase to the person assessed or the person controlling the property as provided in section two of this article. The notice shall be given on or before January 15 of the tax year and advise the person assessed or the person controlling the property of his or her right to appear and seek an adjustment in the assessment: Provided, That this notification requirement does not apply to industrial or natural resources property appraised by the Tax Commissioner under article six-k of this chapter which is assessed at sixty percent of its true and actual value. The notice shall be made by first-class United States postage mailed to the address of the person assessed or the person controlling the property for payment of tax on the item in the previous year, unless there was a general increase of the entire valuation in one or more of the tax districts in which case the notice shall be by publication of the notice by a Class II-0 legal advertisement in compliance with the provisions of article three, chapter fifty-nine of this code. The area for the publication is the county. The requirement of notice under this section is satisfied and waived if personal notice of the increase is shown by:

(1) The taxpayer having signed the assessment form after it had been completed showing the increase;

(2) Notice was given as provided in section three-a of this article; or

(3) The person assessed executing acknowledgment of the notice of the increase.

(b) During the initial reappraisal of all property under section seven, article one-c of this chapter, the Tax Commissioner and each county assessor shall send every person owning or controlling property appraised by the Tax Commissioner or the county assessor a pamphlet which explains the reappraisal process and its equalization goal in a detailed yet informal manner. The property valuation training and procedures commission, created
under section three, article one-c of this chapter, shall
design the pamphlet for use in all counties while allowing
individual county information to be included if it deter-
mines that the information would improve understanding
of the process.

§11-3-10. Failure to list property, etc.; collection of penalties and forfeitures.

1 (a) If any person, firm or corporation, including public
service corporations, whose duty it is by law to list any
real estate or personal property for taxation, refuses to
furnish a proper list thereof or refuses to list within the
time required by law, or if any person, firm or corporation,
including public service corporations, refuses to answer or
answers falsely any question asked by the assessor or by
the Tax Commissioner, or fails or refuses to deliver any
statement required by law, the person, firm or corporation
may forfeit, at the discretion of the assessor or the Tax
Commissioner for good cause shown, not less than $25 nor
more than $100. If any person, firm or corporation
willfully fails to furnish a proper list of real estate or
personal property for taxation or refuses to answer or
falsely answers any question asked by the assessor or by
the Tax Commissioner, or fails or refuses to deliver any
statement required by law, such person, firm or corpora-
tion shall be denied all remedy provided by law for the
correction of any assessment made by the assessor or by
the board of public works: Provided, That no person, firm
or corporation shall be denied the remedy provided by law
to contest any assessment unless the assessor or the Tax
Commissioner has notified such person, firm or corpora-
tion in writing that this penalty will be asserted and the
requested information is not provided within fifteen days
of the date of receipt of the notice.

(b) If any person, firm or corporation, including public
service corporations, required by law to make return of
property for taxation, whether the return is to be made to
the assessor, the board of Public Works, or any other
assessing officer or body, fails to return a true list of all
property which should be assessed in this state, the person,
firm or corporation, in addition to all other penalties
provided by law, shall forfeit one percent of the value of
the property not yet returned and not otherwise taxed in
this state.

(c) A forfeiture as to all property aforesaid may be
enforced for any default occurring in any year not exceed-
ing five years immediately prior to the time the default is
discovered.

(d) Each failure to make a true return as herein required
constitutes a separate offense, and a forfeiture shall apply
to each of them, but all forfeitures, to which the same
person, firm or corporation is liable, shall be enforced in
one proceeding against the person, firm or corporation, or
against the estate of any deceased person, and may not
exceed five percent of the value of the property not
returned that is required to be returned for taxation by
this chapter.

(e) Forfeitures shall be collected as provided in article
two, chapter eleven-a of this code, the same as any tax
liability, against the defaulting taxpayer, or in case of a
decedent, against his or her personal representative. The
sheriff shall apportion such fund among the state, county,
district, school district and municipalities which would
have been entitled to the taxes upon the property if it had
been assessed, in proportion to the rates of taxation for
each levying unit for the year in which the judgment was
obtained bears to the sum of rates for all.

(f) When the list of property returned by the appraisers
of the estate of any deceased person shows an amount
greater than the last assessment list of real and tangible
personal property of the deceased person next preceding
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the appraisal of his or her estate, it is prima facie evidence
that the deceased person returned an imperfect list of his
or her property: Provided, That any person liable for the
tax, or his or her personal representative, may always be
permitted to prove by competent evidence that the dis-
crepancy between the assessment list and the appraisal of
the estate is caused by a difference of valuation returned
by the assessor and that made by the appraisers of the
same property or by property acquired after assessment,
or that any property enumerated in the appraisers' list had
been otherwise listed for taxation, or that it was not liable
for taxation.

(g) Any judgment recovered under this section is a lien,
from the time of the service of the notice, upon all real
estate and personal property of the defaulting taxpayer,
owned at the time or subsequently acquired, in preference
to any other lien.

§11-3-12. Assessment of corporate property; reports to assessors by corporations.

(a) Each incorporated company, banking institution and
national banking association, foreign or domestic, having
its principal office or chief place of business in this state,
owning property subject to taxation in this state, except
railroad, telegraph and express companies, telephone
companies, pipeline, car line companies and other public
utility companies, shall annually, between the assessment
date and September 1, make a written report, verified by
the oath of the president or chief accounting officer, to the
assessor of the county in which its principal office or chief
place of business is situated or in which property subject
to taxation in this state is located if the corporation does
not have a principal office or chief place of business in this
state, showing the following items: (1) The quantity,
location and fair market value of all of its real estate, and
tax district or districts in which it is located; and (2) the
kinds, quantity and fair market value of all its tangible personal property in each tax district in which it is located.

(b) The oath required for this section shall be substantially as follows:

State of West Virginia, County ................., ss:

I, ..................., president (treasurer or manager) of (here insert name of corporation), do solemnly swear (or affirm) that the foregoing is, to the best of my knowledge and judgment, true in all respects; that it contains a statement of all the real estate and tangible personal property that the value affixed to such property is, in my opinion, its value, by which I mean the price at which it would sell if voluntarily offered for sale on such terms as are usually employed in selling such property, and not the price which might be realized at a forced or auction sale; and said corporation has not, to my knowledge, during the sixty-day period immediately prior to the assessment date converted any of its assets into nontaxable securities or notes or other evidence of indebtedness for the purposes of evading the assessment of taxes thereon; so help me, God.

The officer administering the oath shall append thereto the following certificate:

Subscribed and sworn to before me by .........................

this the ..................... day of........................., 20 .......

§11-3-15. Assessment of capital used in trade or business by natural persons or unincorporated businesses.

(a) The value of the capital used by any individual or firm, not incorporated, in any trade or business taxable by law, shall be ascertained in the following manner: The owner, agent or chief accountant of every trade or business, except the business of agriculture, carried on in any county of the state shall annually, on or after the assess-
(1) The amount, the true and actual value and classification of all tangible personal property used in connection with the trade or business, other than that regularly kept for sale therein, including chattels real and personal;

(2) The true and actual value and classification of all goods and property kept for sale and remaining unsold;

(3) The location, quantity, the true and actual value and classification of all real estate owned by the individual or firm and used in the trade or business.

(b) The assessor shall, upon the receipt of such report, properly verified, if the assessor is satisfied with the correctness thereof, enter the real estate in the land book of the county in the tax district wherein the same is situated and assess the same with taxes, if not otherwise assessed, to the owner thereof: Provided, That the personal property mentioned in the report shall be entered in the personal property book of the county for assessment with taxes as follows: Items (1) and (2) shall be entered in the tax districts where they are for the greater part of the year kept or located; and item (3) shall be entered under its appropriate heading in the municipality or tax district wherein the property is located.

(c) If the assessor is not satisfied with the correctness of the report, the assessor may proceed to ascertain a correct list of the property on which the individual or firm is liable to be assessed with taxes, and to value the same as in other cases.

(d) The person making the report shall take and subscribe an oath in substantially the following form:
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41 I, .................., do solemnly swear (or affirm) that the
42 foregoing list is true and correct to the best of my knowl-
43 edge; that the value affixed to the property therein listed
44 I believe to be the true and actual value thereof; that none
45 of the assets belonging to (here state the name of individ-
46 ual or firm) and used in the business of (here describe the
47 business) have to my knowledge, since the assessment
48 date, been converted into nontaxable securities for the
49 purpose of evading the assessment of taxes thereon; so
50 help me, God.

51 The officer administering the oath shall append thereto
52 the following certificate:

53 Subscribed and sworn to before me by (here insert
54 affiant's name) this ............ day of .................., 20 ......

§11-3-15a. Assessment of property of limited liability compa-
nies.

1 Limited liability companies that elect to be treated as a
2 corporation for federal income tax purposes shall make
3 and file the report required of corporations in section
4 twelve of this article. Limited liability companies treated
5 as a partnership for federal income tax purposes shall
6 make and file the report required in section fifteen of this
7 article. A limited liability company that elects to be
8 treated as a disregarded entity for federal income tax
9 purposes shall be treated as a disregarded entity under this
10 article and its owner shall make and file the report
11 required by section twelve or section fifteen of this article
12 depending upon whether the owner is a corporation, a firm
13 or an individual.

§11-3-15b. Notice of increase in assessed value of business
personal property.

1 (a) On or before January 15 of the tax year, the assessor
2 shall mail a notice of assessed value to any corporation,
partnership, limited partnership, limited liability company, firm, association, company or other form of organization engaging in business activity in the county showing the aggregated assessed value of taxpayer’s tangible personal property situated in the county on the assessment date, if known, that is not appraised by the Tax Commissioner: Provided, That notice is only required if:

(1) The aggregated assessed value of taxpayer’s tangible personal property used in business activity is more than ten percent greater than the aggregated assessed value of the property in the prior tax year; and

(2) The aggregated assessed value of property has increased by more than $100,000 since the prior tax year.

However, this notification requirement does not apply to industrial or natural resources personal property that is appraised by the Tax Commissioner under article six-k of this chapter which is assessed at sixty percent of its true and actual value.

(b) The assessor shall include in the assessment notice:

(1) The assessed value of the property for the preceding assessment year;

(2) The proposed assessed value of the property for the current assessment year;

(3) The classification of the property pursuant to section one, Article X of the Constitution of this state;

(4) The mailing date of the notice; and

(5) The last date on which the taxpayer may file a petition for review with the assessor from the valuation or classification assigned to the property.

(c) The notice required by this section shall be: (1) In writing, in the form prescribed by the Tax Commissioner,
and mailed to the taxpayer's last known mailing address;

(d) No later than the sixteenth day of the tax year, the assessor shall certify to the county commission and to the Tax Commissioner the date on which all notices under this section were mailed.

(e) After the mailing date of the notice any person who owns, claims, possesses or controls property that is valued by the assessor may inquire of and be advised by the assessor as to the valuation of the property determined by the assessor.

(f) The owner or person in possession of the tangible personal property may petition the assessor for review as provided in section fifteen-d of this article.

§11-3-15c. Petition for assessor review of improper valuation of real property.

(a) A taxpayer who is of the opinion that his or her real property has been valued too high or otherwise improperly valued or listed in the notice given as provided in section two-a of this article may, but is not required to, file a petition for review with the assessor on a written form prescribed by the Tax Commissioner. This section shall not apply to industrial and natural resource property appraised by the Tax Commissioner.

(b) The petition shall state the taxpayer's opinion of the true and actual value of the property and substantial information that justifies that opinion of value for the assessor to consider for purposes of basing a change in classification or correction of the valuation. For purposes of this subsection, the taxpayer provides substantial information to justify the opinion of value by stating the method or methods of valuation on which the opinion is based:
18 (1) Under the income approach, including the information required in section fifteen-e of this article;

20 (2) Under the market approach, including the true and actual value of at least three comparable properties in the same geographic area or the sale of the subject property; or

24 (3) Under the cost approach, including the replacement cost or the cost to build or rebuild the property, plus the true and actual value of the land.

27 (c) The petition may include more than one parcel of property if they are part of the same economic unit according to the Tax Commissioner's guidelines or if they are owned by the same owner, have the same use, are appealed on the same basis and are located in the same tax district or in contiguous tax districts of the county, and are in a form prescribed by the Tax Commissioner.

34 (d) The petition shall be filed within five days after the date the taxpayer receives the notice of increased assessment under section two-a of this article or the notice of increased value was published as a Class II-0 legal advertisement as provided in that section.

§11-3-15d. Administrative review of tangible personal property valuation by assessor.

1 (a) The owner of business tangible personal property that is valued by the assessor or the person in whose possession it is found on the assessment date may appeal to the assessor within five days after the date the notice of increased assessment required by section fifteen-b of this article was received by filing a petition with the assessor on a form prescribed by the Tax Commissioner. The petition shall set forth in writing:

9 (1) The taxpayer's opinion of the value of the tangible personal property; and
(2) Substantial information that justifies the opinion of value in order for the assessor to consider the information for the purpose of basing a change in the valuation.

(b) The assessor shall rule on each petition no later than February 10 of the tax year.

(c) The notice of the assessor's ruling provided under this section shall be given in the same manner as prescribed in section fifteen-h of this article.

(d) If the request of the petitioner is denied, in whole or in part, the notice required by subsection (c) of this section shall include the grounds for refusing to grant the request contained in the petition.

(e) This section shall not apply to tangible personal property appraised by the Tax Commissioner as part of an industrial or natural resource property appraisal.

§11-3-15e. Contents of petition based on income approach to value of real property.

(a) A petition that is filed with the assessor under section fifteen-c or fifteen-d of this article based on the income approach to value shall include income and expense data relating to the property for the three most recent consecutive fiscal years of the petitioner ending on or before June 30 preceding the then current assessment year. If the income and expense data is not available to the petitioner, the petitioner shall file with the petition such income and expense data as is available. The Tax Commissioner, by rule, may establish additional information to be filed if the required income and expense data are not available.

(b) If a petitioner under this article uses the income approach to determine valuation, the petitioner, an officer of a corporate petitioner, a general partner or a designated agent shall file a sworn affidavit under penalty of perjury that the information contained in the petition is true and correct to the best of the petitioner's knowledge.
§11-3-15f. Rejection of petition for failure to include substantial information; amended petition; appeal.

1 If the assessor rejects a petition filed pursuant to section fifteen-c, fifteen-d or fifteen-e of this article, the petitioner may appeal to the county board of equalization and review as provided in section twenty-four of this article.

§11-3-15g. Meeting between assessor and petitioner.

1 (a) At the petitioner’s written request, the assessor or a member of his or her staff shall meet with the petitioner and the petitioner’s representative, if any, at a time and place designated at least three working days in advance by the assessor after the petition is filed.

1 (b) If the petitioner is unable to appear and meet with the assessor at the time and place set by the assessor, the petitioner may submit written evidence to support the petition if it is submitted before the date of the meeting.

§11-3-15h. Ruling on petition.

1 (a) In all cases the assessor shall consider the petition and shall rule on each petition filed pursuant to section fifteen-c, fifteen-d or fifteen-e of this article by February 10 of the assessment year. Written notice shall be served by regular mail on the person who filed the petition.

6 (b) In considering a petition filed pursuant to section fifteen-c, fifteen-d or fifteen-e of this article, the assessor shall consider the valuation fixed by the assessor on other similar property that is similarly situated.

§11-3-15i. Petitioner’s right to appeal.

1 (a) If the assessor grants the requested relief, the petitioner may not appeal the ruling of the assessor.

3 (b) If the petitioner and the assessor reach an agreement within five business days after the conclusion of the
5 meeting held as provided in section fifteen-g of this
6 article, both parties shall sign the agreement and both
7 parties waive the right to further appeal.

8 (c) If all or part of the petitioner's request under section
9 fifteen-c, fifteen-d or fifteen-e of this article is denied, the
10 assessor shall mail, on the date of the ruling, to the
11 petitioner at the address shown on the petition notice of
12 the grounds of the refusal to make the change or changes
13 requested in the petition. A petitioner whose request is
14 denied, in whole or in part, or a petitioner who does not
15 receive a response from the assessor by February 10, as
16 provided in section fifteen-h of this article, may file a
17 protest with the county commission sitting as a board of
18 equalization and review, as provided in section twenty-
19 four of this article.

§11-3-19. Property books; time for completing; extension of
levies; copies.

1 The assessor shall complete the assessment and make up
2 the assessor's official copy of the land and personal
3 property books in time to submit the same to the board of
4 equalization and review not later than February 1 of the
5 tax year. The assessor shall, as soon as practicable after
6 the levy is laid, extend the levies on the land and personal
7 property books, and shall forthwith make three copies of
8 the land books and two copies of the personal property
9 books with the levies extended. One of the copies of the
10 land books shall be delivered to the sheriff not later than
11 June 7; one copy shall be delivered to the clerk of the
12 county commission not later than July 1; and one copy
13 shall be sent to the State Auditor not later than July 1.
14 One of the copies of the personal property books shall be
15 delivered to the sheriff and one copy shall be delivered to
16 the clerk of the county commission on or before the same
17 date fixed above for the delivery of the land books. The
18 copies shall be official records of the respective officers.
The assessor may require the written receipt of each of the officers for the copy. Before delivering any of the copies the assessor shall make and subscribe the following oath at the foot of each of them:

I, ................., assessor of the county of ............., do solemnly swear, (or affirm) that in making the foregoing assessment I have to the best of my knowledge and ability pursued the law prescribing the duties of assessors and that I have not been influenced in making the same by fear, favor or partiality; so help me, God.

The officer administering the foregoing oath shall append thereto a certificate in substantially the following form:

Subscribed and sworn to before me, a .................... for the County of .................. and State of West Virginia, by ............... , assessor for said county, this the ..... day of ........., 20 ......

§11-3-23a. Informal review and resolution of classification, taxability and valuation issues.

(a) General. – Anytime after real or tangible personal property is returned for taxation, the taxpayer may apply to the assessor of the county in which the property was situated on the assessment date for information about the classification, taxability or valuation of the property for property tax purposes for the tax year following the July 1 assessment date. A taxpayer who is not satisfied with the response of the assessor and wants to further pursue the matter must follow the procedures set forth in this section.

(b) Classification or taxability. – A taxpayer who wants to contest the classification or taxability of property must
follow the procedures set forth in section twenty-four-a of this article.

(c) Valuation issues - property appraised and assessed by county assessor. –

(1) A taxpayer who is dissatisfied with the response of the assessor on a question of valuation and who receives a notice of increase in the assessed value of real property as provided in section two-a of this article, or a notice of increase in the assessed value of business personal property as provided in section fifteen-b of this article, who disagrees with the assessed value stated in the notice, may utilize the informal review process specified in this article if the taxpayer decides to challenge the assessed value.

(2) A taxpayer may apply for relief to the county commission sitting as a board of equalization and review pursuant to section twenty-four of this article not later than February 20 of the tax year by filing a written protest with the clerk of the county commission that identifies the amount of the assessed value the taxpayer believes to be in controversy and states generally the taxpayer's reason or reasons for filing the protest. The board shall then set a date and time to hear the taxpayer's protest: Provided, That in the written protest or in a separate notice filed with the board on or before the day of the hearing, the taxpayer or taxpayer's representative may notify the board of the taxpayer's election to have the matter heard when the county commission convenes as a board of assessment appeals in the fall of the tax year as provided in section twenty-four-b of this article. A copy of this election shall be served on the assessor, and the Tax Commissioner in the case of industrial property or natural resources property, by personal service or by certified mail. The notice of election shall include an acknowledgment by the taxpayer that the taxpayer will timely pay first and second half installment payments of taxes levied
for the current tax year on or before they become due and
that any reduction in assessed value that is administratively or judicially determined in a decision that becomes final will result in a credit being established against taxes that become due for a tax year subsequent to the tax year in which the decision becomes final, except as otherwise stated in the decision or as otherwise provided in this article. In the event the board adjourns sine die before February 20 of the tax year, a taxpayer may still file its written protest and the acknowledgment described in this subdivision with the county clerk on or before February 20 of the tax year, and the petition shall be heard when the county commission meets as a board of assessment appeals, as provided in section twenty-four-b of this article. If a taxpayer fails to provide its written protest on or before February 20, and the board unilaterally increases the assessed value subsequent to that date, the taxpayer may still file a written protest and the acknowledgment described in this subdivision with the county clerk, and the petition shall be heard when the county commission meets as a board of assessment appeals as provided in section twenty-four-b of this article.

(d) Valuation issues - property appraised by Tax Commissioner and assessed by county assessor. –

(1) A taxpayer who receives a notice of tentative appraised value of natural resource property or industrial property from the Tax Commissioner pursuant to article six-k of this chapter, who disagrees with the value stated in the notice may utilize the informal review process specified in this article and article six-k of this chapter.

(2) A taxpayer may apply for relief to the county commission sitting as a board of equalization and review pursuant to section twenty-four of this article no later than February 20 of the tax year by filing a written protest with the clerk of the county commission that identifies the
amount of the assessed value the taxpayer believes to be in
controversy and states generally the taxpayer’s reason or
reasons for filing the protest. The board shall then set a
date and time to hear the taxpayer’s protest: Provided,
That in the written protest or in a separate notice filed
with the board on or before the day of the hearing, the
taxpayer or taxpayer’s representative may notify the
board of the taxpayer’s election to have the matter heard
when the county commission convenes as a board of
assessment appeals in the fall of the tax year as provided
in section twenty-four-b of this article. A copy of this
election shall be served on the assessor, and the Tax
Commissioner in the case of industrial property or natural
resources property, by personal service or by certified
mail. The notice of election shall include an acknowledg-
ment by the taxpayer that taxpayer will timely pay first
and second half installment payments of taxes levied for
the current tax year on or before they become due and that
any reduction in assessed value that is administratively or
judicially determined in a decision that becomes final will
result in a credit being established against taxes that
become due for a tax year subsequent to the tax year in
which the decision becomes final, except as otherwise
stated in the decision or as otherwise provided in this
article. In the event the board adjourns sine die before
February 20 of the tax year, a taxpayer may still file its
written protest and the acknowledgment described in this
subdivision with the county clerk on or before February 20
of the tax year, and the petition shall be heard when
county commission meets as a board of assessment ap-
peals, as provided in section twenty-four-b of this article.
If a taxpayer fails to provide its written protest on or
before February 20, and the board unilaterally increases
the assessed value subsequent to that date, the taxpayer
may still file a written protest and the acknowledgment
described in this subdivision with the county clerk, and
the petition shall be heard when the county commission
§11-3-24. Review and equalization by county commission.

(a) The county commission shall annually, not later than February 1 of the tax year, meet as a board of equalization and review for the purpose of reviewing and equalizing the assessment made by the assessor. The board shall not adjourn for longer than three business days at a time, not including a Saturday, Sunday or legal holiday in this state, until this work is completed. The board may adjourn sine die anytime after February 15 of the tax year and shall adjourn sine die not later than the last day of February of the tax year.

(b) At the first meeting of the board, the assessor shall submit the property books for the current year, which shall be complete in every particular, except that the levies shall not be extended. The assessor and the assessor’s assistants shall attend and render every assistance possible in connection with the value of property assessed by them.

(c) The board shall proceed to examine and review the property books, and shall add on the books the names of persons, the value of personal property and the description and value of real estate liable to assessment which was omitted by the assessor. The board shall correct all errors in the names of persons, in the description and valuation of property, and shall cause to be done whatever else is necessary to make the assessed valuations comply with the provisions of this chapter. But in no case shall any question of classification or taxability be considered or reviewed by the board.

(d) If the board determines that any property or interest is assessed at more or less than sixty percent of its true and actual value as determined under this chapter, it shall fix it at sixty percent of its true and actual value: Pro-
That no assessment shall be increased without giving the taxpayer at least five days' notice, in writing, of the intention to make the increase and no assessment shall be greater than sixty percent of the true and actual value of the property.

(e) Service of notice of the increase upon the taxpayer shall be sufficient, or upon his or her agent or attorney, if served in person, or if sent by registered or certified mail to the property owner, his or her agent, or attorney, at the last known mailing address of the person as shown in the records of the assessor or the tax records of the county sheriff. If such person cannot be found and has no last known mailing address, then notice shall be given by publication thereof as a Class I legal advertisement in compliance with the provisions of article three, chapter fifty-nine of this code and the publication area shall be the county. The date of the publication shall be at least five days, not including a Saturday, Sunday or legal holiday in this state, prior to the day the board acts on the increase. When the board intends to increase the entire valuation in any one tax district by a general increase, notice shall be given by publication thereof as a Class II legal advertisement in compliance with the provisions of article three, chapter fifty-nine of this code and the publication area shall be the county. The date of the last publication shall be at least five days, not including a Saturday, Sunday or legal holiday in this state, prior to the meeting at which the increase in valuation is acted on by the board. When an increase is made, the same valuation shall not again be changed unless notice is again given as heretofore provided.

The clerk of the county commission shall publish notice of the time, place and general purpose of the meeting as a Class II legal advertisement in compliance with the provisions of article three, chapter fifty-nine of this code.
and the publication area shall be the county. The expense
of publication shall be paid out of the county treasury.

(f) Any person who receives notice as provided in
subsection (e) of this section may appear before the board
at the time and place specified in the notice to object to
the proposed increase in the valuation of taxpayer's
property. After hearing the board's reason or reasons for
the proposed increase, the taxpayer may present his or her
objection or objections to the increase and the reason or
reasons for the objections and may either orally or in
writing advise the board that the taxpayer elects for the
matter to be heard in the fall of the tax year when the
county commission meets as a board of assessment appeals
as provided in section twenty-four-b of this article:
Provided, That taxpayer's election shall not stay a decision
by the board to increase the assessed value of the property
for the current tax year.

(g) The board may approve an agreement signed by the
taxpayer or taxpayer's representative and the assessor,
and by a representative of the Tax Commissioner when the
property is industrial property or natural resources
property, that resolves a valuation matter while the land
and personal property books are before the board for
equalization and review.

(h) If any person fails to apply for relief at this meeting,
he or she shall have waived the right to ask for correction
in the assessment list for the current year, and shall not
thereafter be permitted to question the correctness of the
list as finally fixed by the board, except on appeal to the
circuit court or as otherwise provided in this article.

(i) After the board completes the review and equalization
of the property books, a majority of the board shall sign a
statement that it is the completed assessment of the county
for the tax year. Then the property books shall be deliv-
ered to the assessor and the levies extended as provided by law.

(j) A taxpayer who elects to have a hearing before the board of equalization and review may appeal the board's order as provided in section twenty-five of this article. A taxpayer who elects to have a hearing before the board of assessment appeals may only appeal the assessed value as provided in section twenty-four-b of this article.

§11-3-24a. Protest of classification or taxability to assessor; appeal to Tax Commissioner.

(a) At any time after property is returned for taxation, and up to and including the time the property books are before the county commission sitting as a board of equalization and review, any taxpayer may apply to the assessor for information regarding the classification and taxability of the taxpayer's property. In case the taxpayer is dissatisfied with the classification of property assessed to the taxpayer or believes that the property is exempt or otherwise not subject to taxation, the taxpayer shall file objections in writing with the assessor. The assessor shall decide the question by either sustaining the protest and making proper corrections, or by stating, in writing if requested, the reasons for refusal to grant the protest.

(b) The assessor may, and if the taxpayer requests, the assessor shall, certify the question to the State Tax Commissioner in a statement sworn to by both parties, or if the parties are unable to agree, in separate sworn statements, giving a full description of the property and any other information which the Tax Commissioner requires. The Tax Commissioner shall prescribe forms on which the aforesaid question shall be certified and the Tax Commissioner shall have the authority to pursue any inquiry and procure any information necessary for the disposition of the issue.
(c) The Tax Commissioner shall, as soon as possible on receipt of the question, but in no case later than February 28 of the assessment year, instruct the assessor as to how the property shall be treated. The instructions issued and forwarded by mail to the assessor shall be binding upon the assessor, but either the assessor or the taxpayer may apply to the circuit court of the county within thirty days after receiving written notice of the Tax Commissioner's ruling, for review of the question of classification or taxability in the same fashion as is provided for appeals from the county commission sitting as a board of equalization and review in section twenty-five of this article.

(d) The amendments to this section enacted in the year 2010 shall apply to classification and taxability rulings issued for taxes levied after December 31, 2011.

§11-3-24b. Board of Assessment Appeals.

(a) The county commission shall meet as a board of assessment appeals no sooner than October 1 of the tax year, unless that day is a Saturday, Sunday or legal holiday in this state, in which event the board shall begin meeting on the next day that is not a Saturday, Sunday or legal holiday.

(b) The board shall set a date and time for hearing each protest filed on or before February 20 of the tax year, as provided in section twenty-three-a of this article, and for which the taxpayer elected to have the matter heard by the board of assessment appeals: Provided, That the commission may, before, on or after October 1, begin developing a hearing schedule for hearings to commence on or after October 1. The board may in its discretion grant one or more continuances of the hearing date. The board shall grant a continuance when the continuance is agreed to by the assessor and the taxpayer. When the hearing involves industrial property or natural resources property appraised by the Tax Commissioner, the board shall grant
20 continuances of hearing dates and otherwise work with  
21 the Tax Commissioner to develop a hearing schedule that  
22 recognizes the limitations of state resources and the fact  
23 that the Tax Commissioner is responsible for appraising  
24 industrial properties and natural resource properties in all  
25 fifty-five counties.

26 (c) Upon the timely request of any party, the board may,  
27 before, on or after October 1, develop a discovery schedule  
28 for the exchange of information between the taxpayer and  
29 the assessor and, in matters involving industrial property  
30 or natural resources property, the Tax Commissioner. Any  
31 objections to discovery may be made to the board which  
32 shall rule on such objections. Any willful failure to  
33 provide the information requested through the discovery  
34 process and required by the board may be grounds for  
35 dismissal of the appeal by the board: Provided, That the  
36 board shall provide written justification for dismissal to  
37 all parties, and: Provided further, That any dismissal may  
38 be appealed to the circuit court as provided in section  
39 twenty-five of this article.

40 (d) The board may assign the appeal to a hearing exam-  
41 iner for the taking of evidence if the hearing examiner is  
42 mutually agreed to by the parties to the appeal. The  
43 hearing examiner shall have the same authority as the  
44 board to schedule hearings and schedule and compel  
45 discovery: Provided, That, in the case of a willful failure  
46 to provide information, an appeal may be dismissed only  
47 by the board as provided in subsection (c) of this section.  
48 Hearings before a hearing examiner shall be recorded  
49 electronically. Upon the conclusion of discovery and  
50 hearings on an appeal, the hearing examiner shall make a  
51 written report of findings of fact and conclusions of law  
52 and provide the same to the board and all parties to the  
53 appeal. The board shall issue its order consistent with the  
54 report of the hearing examiner without the taking of
additional evidence. The cost and expenses of the hearing examiner shall be paid by the board.

(e) The board may approve an agreement signed by the taxpayer or taxpayer's representative and the assessor, and by a representative of the Tax Commissioner when the property is industrial property or natural resource property, that resolves a valuation matter that arose while the land and personal property books were before the board of equalization and review.

(f) The board shall issue its order within a reasonable time after the record for the hearing is closed and all required briefs have been submitted.

(g) Any party to the hearing may appeal the order of the board in the manner provided in section twenty-five of this article for appealing an order of the board of equalization and review.

(h) In the event the board reduces an assessed value in an order that becomes final, the county clerk shall certify copies of the order to the Auditor, sheriff and assessor, and to the Tax Commissioner if the property is industrial property or natural resources property. The taxpayer shall be entitled to a credit voucher to be applied against future taxes as provided in this article. When endorsed by the taxpayer, the voucher shall be sufficient to entitle the sheriff to a credit for so much of his or her settlement which he or she is required to make.

(i) The board of assessment appeals shall meet as often as necessary until the work of the board is completed: Provided, That the board shall adjourn sine die not later than October 31 of the tax year unless the board, by majority vote, agrees to extend the term if necessary to afford the parties due process and to complete its work, after which it shall adjourn sine die.
§11-3-25. Relief in circuit court against erroneous assessment.

(a) Any person claiming to be aggrieved by any assessment in any land or personal property book of any county who shall have appeared and contested the valuation as provided in section twenty-four or twenty-four-a of this article, or whose assessment has been raised by the county commission sitting as a board of equalization and review above the assessment fixed by the assessor may, at any time up to thirty days after the adjournment of the board sitting as a board of equalization and review, or at any time up to thirty days after the order of the board of assessment appeals is served on the parties, apply for relief to the circuit court of the county in which the property books are made out; but any person applying for relief in circuit court shall, before any application is heard, give ten days' notice to the prosecuting attorney of the county, whose duty it shall be to attend to the interests of the state, county and district in the matter, and the prosecuting attorney shall give at least five days' notice of hearing to the Tax Commissioner.

(b) The right of appeal from any assessment by the board of equalization and review or order of the board of assessment appeals as provided in this section, may be taken either by the applicant or by the state, and in case the applicant, by his or her agent or attorney, or the state, by its prosecuting attorney or Tax Commissioner, desires to take an appeal from the decision of the either board, the party desiring to take an appeal shall have the evidence taken at the hearing of the application before either board, including a transcript of all testimony and all papers, motions, documents, evidence and records as were before the board, certified by the county clerk and transmitted to the circuit court as provided in section four, article three, chapter fifty-eight of this code, except that, any other provision of this code notwithstanding, the evidence shall be certified and transmitted within thirty days after the
petition for appeal is filed with the court or judge, in
vacation.

(c) If there was an appearance by or on behalf of the
taxpayer before either board, or if actual notice, certified
by the board, was given to the taxpayer, the appeal, when
allowed by the court or judge, in vacation, shall be deter-
mined by the court from the record as so certified: Pro-
vided, That in cases where the court determines that the
record made before the board is inadequate as a result of
the parties having had insufficient time to present evi-
dence at the hearing before the board to make a proper
record, as a result of the parties having received insuffi-
cient notice of changes in the assessed value of the prop-
erty and the reason or reasons for the changes to make a
proper record at the hearing before the board, as a result
of irregularities in the procedures followed at the hearing
before the board, or for any other reason not involving the
negligence of the party alleging that the record is inade-
quate, the court may remand the appeal back to the county
commission of the county in which the property is located,
even after the county commission has adjourned sine die
as a board of equalization and review or a board of
assessment appeals for the tax year in which the appeal
arose, for the purpose of developing an adequate record
upon which the appeal can be decided. The county
commission shall schedule a hearing for the purpose of
taking additional evidence at any time within ninety days
of the remand order that is convenient for the county
commission and for the parties to the appeal. If, however,
there was no actual notice to the taxpayer, and no appear-
ance by or on behalf of the taxpayer before the board, or
if a question of classification or taxability is presented, the
matter shall be heard de novo by the circuit court.

(d) If, upon the hearing of appeal, it is determined that
any property has been assessed at more than sixty percent
of its true and actual value determined as provided in this
chapter, the circuit court shall, by an order entered of record, correct the assessment, and fix the assessed value of the property at sixty percent of its true and actual value. A copy of the order or orders entered by the circuit court reducing the valuation shall be certified to the Auditor, if the order or orders pertain to real property, by the clerk within twenty days after the entering of the same, and every order or judgment shall show that the prosecuting attorney or Tax Commissioner was present and defended the interest of the state, county and district.

If it be ascertained that any property has been valued too high, and that the taxpayer has paid the excess tax, it shall be refunded or credited to the taxpayer in accordance with the provisions of section twenty-five-a of this article, and if not paid, he or she shall be relieved from the payment thereof. If it is ascertained that any property is valued too low, the circuit court shall, by an order entered of record, correct the valuation and fix it at sixty percent of its true and actual value. A copy of any order entered by any circuit court increasing the valuation of property shall be certified within twenty days, if the order pertains to real property, to the Auditor, the county clerk and the sheriff. However, if the order pertains only to personal property, then the copy shall be certified within twenty days to the county clerk and to the sheriff and it shall be the duty of the Auditor, the county clerk and the sheriff to charge the taxpayer affected with the increase of taxes occasioned by the increase of valuation by applying the rate of levies for every purpose in the district where the property is situated for the current year. The order shall also be filed in the office of the Auditor and clerk of the county commission. The circuit court shall review the record submitted from the board. If the court determines that the record is adequate, it shall establish a briefing and argument schedule that will result in the appeal being submitted to the court for decision within a reasonable time, but not to exceed eight months after the appeal is filed. All final
decisions or orders of the circuit court shall be issued within a reasonable time, not to exceed ninety days, from the date the last brief is filed and the case is submitted to the court for decision. The state or the aggrieved taxpayer may appeal a question of valuation to the Supreme Court of Appeals if the assessed value of the property is $50,000 or more, and either party may appeal a question of classification or taxability.

(e) All persons applying for relief to the circuit court under this section shall be governed by the same presumptions, burdens and standards of proof as established by law for taxpayers applying for such relief.

(f) Effective date. – The amendments to this section enacted in 2010 shall apply to tax years beginning after December 31, 2011.

§11-3-25a. Payment of taxes that become due while appeal is pending.

(a) All taxes levied and assessed against the property for the year on which a protest or an appeal has been filed by the taxpayer as provided in section twenty-four or twenty-four-b of this article shall be paid before they become delinquent. If the taxes are not paid before becoming delinquent, the circuit court, having jurisdiction of the appeal, as appropriate, shall dismiss the appeal unless the delinquent taxes and interest due are paid in full within thirty days after taxes for the second half of the tax year become delinquent.

(b) In the event the order of a court becomes final and the order results in an overpayment of taxes levied for the tax year that have been paid to the sheriff, the amount of the overpayment shall be refunded to the taxpayer if the overpayment is $25,000 or less within thirty days after the time for appealing the decision or order expires or, if the decision or order is appealed, within thirty days of the
date the appeals court turns down the appeal: Provided,
That, if the taxpayer's protest before the county commis-
sion below was heard pursuant to the provisions of section
twenty-four-b of this article, the refund shall be paid
pursuant to the provisions of that section. If the overpay-
ment is more than $25,000, a credit in the amount of the
overpayment shall be established by the county sheriff and
allowed as a credit against taxes owed up to the following
two tax years: Provided, That the county commission may
elect to refund the amount of overpayment rather than
having a credit established as provided in this section:
Provided however, That if any portion of the overpayment
remains unused after the date on which taxes payable for
the second half of the second tax year following the tax
year of the overpayment become delinquent, that portion
shall be refunded to taxpayer by the county sheriff no
later than thirty days after that date or thirty days from
the date that the circuit court order becomes final, which-
ever date occurs later. Whenever an overpayment is
refunded or credited under this section, the county shall
pay interest at the rate established in section seventeen
and seventeen-a, article ten of this chapter for
overpayments of taxes collected by the Tax Commissioner,
which interest shall be computed from the date the
overpayment was received by the sheriff to the date of the
refund check or the date the credit is actually taken
against taxes that become due after the order of the court
becomes final.

§11-3-32. Effective date of amendments.

Unless specified otherwise in this article, all amend-
ments to this article adopted in the year 2010 shall apply
to the assessment years beginning on or after July 1, 2011.

§11-3-33. Rules.

The Tax Commissioner is hereby authorized to promul-
gate emergency rules and other rules in accordance with
the provisions of article three, chapter twenty nine-a of
this code as necessary or convenient for administration
and interpretation of this article.

ARTICLE 6K. ASSESSMENT OF INDUSTRIAL PROPERTY AND NATURAL
RESOURCES PROPERTY.

§11-6K-1. Time and basis of assessments; true and actual
value; and returns of property to Tax Commis­sioner.

(a) All industrial property and natural resources prop­
erty shall be assessed annually as of the assessment date at
sixty percent of its true and actual value.

(b) If required by the Tax Commissioner, all owners or
operators of natural resources property, except oil-pro­
ducing property, natural gas-producing property and
managed timberland, shall, on or before May 1 preceding
the July 1 assessment date, make a return to the Tax
Commissioner and, if requested in writing by the assessor
of the county where situated, to the county assessor, at a
time and in the form specified by the Tax Commissioner,
of all applicable natural resources property owned by
them. Tax returns required to be filed pursuant to this
section may be filed electronically in the discretion of the
Tax Commissioner. The Tax Commissioner may require
the filing of all information which would be useful in
valuing the property covered by the returns. Upon written
application by the taxpayer filed prior to the due date of
any return required to be filed by this section, the Tax
Commissioner may for reasonable cause shown grant an
extension of no more than one month in the due date of
any return.

(c) If required by the Tax Commissioner, all owners or
operators of industrial property, oil-producing property
and natural gas-producing property, shall, on or before
August 1 of the assessment year, make a return to the Tax
Commissioner and, if requested in writing by the assessor
of the county where situated, to the county assessor, at a
time and in the form specified by the Tax Commissioner,
of all industrial property, oil-producing property and
natural gas-producing property, owned by them. Tax
returns required to be filed pursuant to this section may be
filed electronically in the discretion of the Tax Commiss-
sioner. The Tax Commissioner may require the filing of all
information which would be useful in valuing the property
covered by the returns. Upon written application by the
taxpayer filed prior to the due date of any return required
to be filed by this section, the Tax Commissioner may for
reasonable cause shown grant an extension of no more
than one month in the due date of any return.

§11-6K-2. Definitions.

1 As used in this article:

(1) “Active coal mining property” means a mineable bed
of coal on a property or portion of a property involved in
a permitted mining operation. Each and every bed of coal
being mined in a permitted mining operation is a separate
active mining property.

(2) “Industrial property” means the real and personal
property integrated as a functioning unit intended for the
assembling, processing and manufacturing of finished or
partially finished products.

(3) “Managed timberland” means surface real property,
except farm woodlots, of not less than ten contiguous acres
which is devoted primarily to forest use and which, in
consideration of its size, has sufficient numbers of com-
mercially valuable species of trees to constitute at least
forty percent normal stocking of forest trees which are
well distributed over the growing site, and that is certified
as managed timberland by the Division of Forestry.

(4) “Natural gas-producing property” means the prop-
erty from which natural gas has been produced or ex-
tracted at any time during the calendar year preceding the assessment date. Natural gas producing-property includes the property interest or interests underlying an area of up to one hundred twenty-five acres of surface per well for property with active wells on the parcel.

(5) "Natural resources property" means any of the following: Active coal mining property, reserve coal property, natural gas-producing property, oil-producing property, managed timberland or other natural resources property.

(6) "Oil-producing property" means property from which oil has been produced or extracted at any time during the calendar year preceding the assessment date. Oil-producing property includes the interest or interests underlying an area of up to forty acres of surface per well with one or more active wells on the parcel.

(7) "Operator" means an individual, limited liability company, partnership, corporation, joint venture or other enterprise which proposes to or does locate, drill, produce, manage or abandon any oil and/or natural gas well or which is engaged in actively obtaining or preparing to obtain coal and/or its by-products from the earth’s crust on an active coal mining property.

(8) "Reserve coal property" means any property for which coal rights are part of the owned estate and which is not part of an active coal mining property.

§11-6K-3. Form and manner of making return; failure to timely make return; penalties.

(a) All returns required to be made to the Tax Commissioner under this article shall be made in conformity with any reasonable requirements of the Tax Commissioner of which the person making the return shall have had notice, and shall be made upon forms prescribed by the Tax Commissioner who is invested with full power and author-
ity to prescribe the forms required from any owner, operator or producer that may be of use to the Tax Commissioner in determining the true and actual value of the properties of the owners, operators or producers.

(b) All returns shall be signed and sworn to by the owner, operator or producer if a natural person, or, if the owner, operator or producer shall be a limited liability company, corporation, partnership, joint venture or other enterprise, shall be signed and sworn to by its president, vice president, secretary or other individual authorized to act on behalf of the taxpayer.

(c) If any owner, operator or producer fails to make a return within the time required by section one of this article, it shall be the duty of the Tax Commissioner to take steps as necessary to compel compliance and to enforce any and all penalties imposed by law for failure to do so.

(d) Any owner, operator or producer, whether a natural person, limited liability company, corporation, partnership, joint venture or other enterprise, willfully failing to make a return within thirty days from the day it is herein required shall be guilty of a misdemeanor and, upon conviction thereof, fined $100 for each month the failure continues. In addition, any penalties provided in this chapter or elsewhere in this code relating to failure to list any property or to file any return or report for ad valorem taxation purposes may be applied to any owner of property required to make a return pursuant to this section.

§11-6K-4. Review of returns; procuring information for tentative appraisals; tentative appraisals by Tax Commissioner; and notification to taxpayers.

(a) All returns delivered to the Tax Commissioner shall be examined by him or her, and if found insufficient in form or in any respect defective, imperfect or not in compliance with law, he or she shall compel the person
delivering the return to make it in proper and sufficient form in all respects as required by law.

(b) If any owner, operator or producer fails to make a required return, the Tax Commissioner shall proceed to obtain the facts and information required to be furnished by the returns.

(c) For the purposes of ascertaining the correctness of any return filed pursuant to this article or of valuing the property of any industrial taxpayer or natural resources property owner or operator, the Tax Commissioner may exercise all of the powers and authority granted to him or her by sections five-a, five-b and five-c, article ten of this chapter.

(d) Using information provided on the returns and all other pertinent evidence, information and data he or she has been able to procure, the Tax Commissioner shall annually value and make tentative appraisals of all industrial property and natural resources property as provided in section ten, article one-c of this chapter.

(e) On or before October 15 of the assessment year, the Tax Commissioner shall complete the preparation of tentative appraisals of all industrial property and natural resources property and shall notify the owner or operator affected thereby of the amount of the tentative appraisals: Provided, That in the case of oil-producing property, natural gas-producing property and managed timberland, the Tax Commissioner shall complete the preparation of tentative appraisals and notify the affected owner or operator by December 1 of the assessment year, and: Provided further, That no notification shall be required where the total increase in the aggregate amount of the tentative appraisals to the owner or operator affected thereby does not exceed $1,000 and the total tentative appraisals did not increase by more than ten percent from the prior year's appraisals. Notification may, at the
reasonable discretion of the Tax Commissioner, be: (1) By written notice deposited in the United States mail, addressed to the owner or operator at the principal office or place of business of the owner or operator; (2) by electronic notification; or (3) by any other means designed to communicate the tentative appraisal information to the owner or operator in a timely and efficient manner and in a convenient useable form. Any notice required to be provided under this section to an owner or operator shall also be provided by the Tax Commissioner to the assessor of the county in which the property is located. The Tax Commissioner shall retain in his or her office true copies of tentative appraisals and of the underlying work sheets used to compute the tentative appraisals, all of which shall be available for inspection by any owner or operator or his or her duly authorized representative.

§11-6K-5. Informal petition to Tax Commissioner for review of tentative appraisals.

(a) A taxpayer who is of the opinion that the tentative appraisal of its industrial property or natural resources property, except oil-producing property, natural gas-producing property and managed timberland, does not reflect the true and actual value of the property or is otherwise improperly valued may, after receiving its tentative appraisal and on or before November 15 of the assessment year, informally petition the Tax Commissioner requesting a review of the tentative appraisal. Likewise, an assessor who is of the opinion that the tentative appraisal of any industrial property or natural resources property, except oil-producing property, natural gas-producing property and managed timberland, located in the county does not reflect the true and actual value of the property or is otherwise improperly valued may, after receiving the tentative appraisal and on or before November 15 of the assessment year, informally petition the Tax Commissioner requesting a review of the tentative ap-
praisal. The Tax Commissioner may require the petition be made on a written form prescribed by the Tax Commissiioner. At the time a petition is filed by a taxpayer with the Tax Commissioner, the petitioner shall provide a copy of the petition to the assessor of the county in which the property is located. At the time a petition is filed by an assessor with the Tax Commissioner, the petitioner shall provide a copy of the petition to the taxpayer involved.

(b) At the petitioner’s request, the Tax Commissioner or his or her representative shall meet with the petitioner or the petitioner’s representative to discuss the petition at a time and place designated at least five working days in advance by the Tax Commissioner after the petition is filed. If the petitioner is unable to appear and meet with the Tax Commissioner at the time and place set by the Tax Commissioner, the petitioner may submit written evidence to support the petition if it is submitted before the date of the meeting.

(c) The Tax Commissioner shall consider and rule on each informal petition filed under this section on or before January 15 of the tax year. If the Tax Commissioner agrees with the petition he or she shall modify the tentative appraisal accordingly. The Tax Commissioner shall then notify the petitioner and assessor of the county in which the property is located in writing of his or her decision and shall include supporting data that the assessor might need to evaluate the appraisal.

§11-6K-6. Final appraisal of industrial property and natural resources property by Tax Commissioner; appraisals sent to assessors; appeals of Tax Commissioner’s appraisals.

(a) The Tax Commissioner shall finalize the tentative appraisals made pursuant to section four of this article and make his or her final appraisals of industrial property
and natural resources property on or before December 15 of the assessment year.

(b) On or before December 15 of the assessment year, the Tax Commissioner shall forward each industrial property and natural resources property appraisal to the county assessor of the county in which that property is located. In so doing, The Tax Commissioner shall identify those appraisals that may still be under review under section five of this article. The assessor shall then multiply each appraisal by sixty percent and include the resulting assessed value in the land book or the personal property book, as appropriate for each tax year. The Tax Commissioner shall supply supporting data that the assessor might need to evaluate the appraisal.

(c) Any taxpayer claiming to be aggrieved by any assessment made pursuant to this article may appeal the assessment as provided under the provisions of article three of this chapter: Provided, That if the assessment exceeds sixty percent of the final appraisal by the Tax Commissioner, the taxpayer may notify the Tax Commissioner in writing of this error, whereupon he or she shall, if the error is confirmed, instruct the assessor in writing to lower the assessment to sixty percent of the final appraisal. The assessor shall, upon receipt of instruction from the Tax Commissioner, lower the assessment as required.

§11-6K-7. Effective date.

The provisions of this article enacted in the year 2010 shall be effective for the assessment years and the tax years beginning on or after July 1, 2011.


The Tax Commissioner is hereby authorized to promulgate emergency rules and other rules in accordance with
§18-9A-12. County basic foundation; total basic state aid allowance.

(a) The basic foundation program for each county for the fiscal year shall be the sum of the amounts computed in accordance with the provisions of sections four, five, six, seven, eight, nine and ten of this article. On the first working day of July in each year, the State Board shall determine the basic foundation program for each county for that fiscal year. Data used in the computations relating to net and adjusted enrollment, and the number of professional educators, shall be for the second month of the prior school term. Transportation expenditures used in these computations shall be for the most recent year in which data are available. The allocated state aid share of the county's basic foundation program shall be the difference between the cost of its basic foundation program and the county's local share as determined in section eleven of this article except as provided in subsection (b) of this section.

(b) The allocated state aid share shall be adjusted in the following circumstances in the following manner: Provided, That prior to such adjustment, the State Tax Commissioner shall provide the State Board, by January 15 of each year, a certified listing of those counties in which such adjustment shall be made pursuant to this subsection, together with the amount of revenue which will not be available to each county board in the ensuing fiscal year as a result of the circumstance:
(1) In those instances where the local share as computed under section eleven of this article is not reflective of local funds available because the county is under a final court order, or a final decision of a board of assessment appeals under section twenty-four-b, article three, chapter eleven of this code, to refund or credit property taxes paid in prior years, the allocated state aid share shall be the county's basic foundation program, minus the local share as computed under section eleven of this article, plus the amount of property tax the county is unable to collect or must refund due to the final court order or final decision of a board of assessment appeals: Provided, That said adjustment shall not be made or shall only be made proportionately when the Legislature fails to fund or funds only in part the public school basic foundation support plan state share at a level sufficient to cover the reduction in state share: Provided, however, That nothing herein provided shall be construed to require or mandate any level of funding by the Legislature.

(2) In those instances where the local share as computed under section eleven of this article is not reflective of local funds available because the county is collecting tax based upon an assessed value which is less than that determined by the Tax Commissioner in the most recent published survey of property valuations in the state due to an error in the published survey, which error is certified to by the Tax Commissioner, the allocated state aid share shall be the county's basic foundation program, minus the local share as computed under section eleven of this article, plus the amount of property tax the county is unable to collect based on differences in the assessed valuation between those in the most recent published survey of valuation and the corrected assessed value actually levied upon by the county: Provided, That said adjustment shall not be made or shall only be made proportionately when the Legislature fails to fund or funds only in part the public school
basic foundation support plan state share at a level sufficient to cover the reduction in state share: Provided, however, That nothing herein provided shall be construed to require or mandate any level of funding by the Legislature.

(3) In instances where a county is unable to collect property taxes from a taxpayer during the pendency of any court proceeding, the allocated state aid share shall be the county's basic foundation program minus the local share as computed under section eleven of this article, plus the amount the county is unable to collect as a result of the pending court proceedings as certified by the Tax Commissioner: Provided, That the county is required to reimburse the amount of allocated state aid share attributable to the amount of property tax it later receives upon completion of court proceedings, which shall be paid into the General Revenue Fund of the state: Provided, however, That said adjustment shall not be made or shall only be made proportionately when the Legislature fails to fund or funds only in part the public school basic foundation support plan state share at a level sufficient to cover the reduction in state share: Provided further, That nothing herein provided shall be construed to require or mandate any level of funding by the Legislature.

(c) The allocated state aid share shall be adjusted in any county receiving payments or contributions in lieu of property taxes. In instances where a county receives payments or contributions in lieu of property taxes, the allocated state aid share shall be the county's basic foundation program minus the local share as computed under section eleven of this article, plus any amounts added pursuant to subsection (b) of this section minus the payments or contributions in lieu of property taxes which are distributed by the sheriff to the county board of education. In determining the amount of such contribution or payment in lieu of taxes, each county commission
shall provide to the State Tax Commissioner, by January
1 of each year, the total amount of such payments or
contributions paid to the county and the proportion of the
total amount that has been or will be distributed to the
county board of education. The State Tax Commissioner
then shall provide the State Board, by January 15 of each
year, a certified listing of those counties in which an
adjustment pursuant to this section shall be made, to-
gether with the amount of revenue which will be available
to each county board in the ensuing fiscal year as a result
of contribution or payment in lieu of taxes.

(d) Total basic state aid to the county shall be the
computed state share of basic foundation support. After
such computation is completed, the State Board shall
immediately certify to each county board the amount of
state aid allocated to the county for that fiscal year,
subject to any qualifying provisions of this article.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Chairman House Committee

Originated in the Senate.

In effect ninety days from passage.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker House of Delegates

The within is approved this the 2nd Day of April, 2010.

Governor
PRESENTED TO THE GOVERNOR

APR 6-1 2010

Time 11:30